



No. 34

July 24, 2003

S. 1417 – United States-Singapore Free Trade Agreement Implementation Act

Calendar No. 223

S. 1417 was jointly reported without amendment by the Committees on Finance and the Judiciary on July 22, 2003, by a vote of 11-4 in Judiciary (voting nay were Senators Sessions, Kohl, Feinstein, and Feingold) and by a 21-0 vote in Finance; no written report at this time.

NOTEWORTHY

- The United States-Singapore Free Trade Agreement (FTA) is the first FTA signed by President Bush. S. 1417 would implement this FTA.
- Along with the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement will be the first trade pacts to move under a fast-track procedure known as Trade Promotion Authority (TPA), which was restored as part of the Trade Act of 2002 (P.L. 107-210). Previously, fast-track authority for the President had lapsed, last being utilized in 1994 by President Clinton.
- Under TPA, the President negotiates trade agreements and then submits them to Congress for expedited consideration. Congress can only approve or reject the implementing bills, not amend them.
- On July 24, the House passed its U.S.-Singapore Free Trade Agreement Implementation Act, H.R. 2739, by a vote of 272-155.

Highlights

- On December 4, 2000, the United States and Singapore began negotiation of a bilateral free trade agreement (FTA).
- On January 15, 2003, the FTA was completed, thereby concluding all negotiations.
- On May 6, 2003, the United States and Singapore signed the bilateral free trade agreement at a White House ceremony.
- After Chile, Singapore will be the sixth country to have a free trade agreement with the United States. The other nations are Canada, Mexico, Israel, and Jordan.
- Singapore is America's 12th largest trading partner, with annual two-way trade of goods and services of more than \$30 billion.
- The United States-Singapore FTA is the first U.S. free trade agreement with an Asian Pacific nation.
- FTA negotiations focused on such issues as market access, trade in services, safeguards, intellectual property rights, electronic commerce, investment, government procurement, transparency, and labor and the environment.
- According to the Office of the U.S. Trade Representative, under the FTA, Singapore guarantees zero tariffs immediately on all U.S. goods and cannot increase its duties on any U.S. product.
- According to a June 2003 study of the U.S. International Trade Commission (ITC) on the effects of this FTA on the U.S. economy, U.S. exports to Singapore would increase in the range of between 0.5 percent and 1.1 percent, and U.S. imports would rise between 3.8 percent and 10.5 percent once tariffs were fully eliminated under the Agreement.
- The FTA will be implemented no earlier than January 1, 2004, and implementation is contingent on Singapore taking the necessary steps to bring its laws and regulations into compliance with the Agreement.

Background

Committee Action: Under the TPA procedures, the Committees may not amend the implementing bills. On July 10, the Senate Finance Committee conducted an informal public review of the draft implementing language submitted by the Administration.

The Judiciary Committee has jurisdiction over the immigration and visa provisions in the bill. On July 14, the Senate Judiciary Committee held a hearing on the Chile and Singapore FTAs, focusing on provisions relating to the temporary entry of professionals. At that time, several Judiciary members from both sides of the aisle reported concerns with the related provisions in the bill (their concerns are addressed on pp. 4-5 of this Notice).

On July 17, the Committee on the Judiciary and the Committee on Finance both ordered the bill reported favorably without amendment. In Judiciary, the vote was 11-4 (with Senators Sessions, Kohl, Feinstein and Feingold voting nay) and in Finance, the vote was unanimous.

Singapore. According to the Congressional Research Service, Singapore is America's largest trading partner in Southeast Asia with two-way merchandise trade in 2002 of \$31.0 billion and a U.S. trade surplus of \$1.4 billion (down from \$2.7 billion in 2001). Singapore is the 11th largest export market for the United States with \$16.2 billion in merchandise exports in 2002. Singapore is the 16th largest source for goods imported into the United States with \$14.8 billion in 2002.

Negotiations. Bilateral negotiations between the United States and Singapore on an FTA began on December 4, 2000. The negotiations were brokered by the Office of the U.S. Trade Representative (USTR) in coordination with Congress. The negotiations focused on such issues as market access, trade in services, safeguards, intellectual property rights, electronic commerce, investment, government procurement, transparency, and labor and the environment. On January 15, 2003, negotiations on the FTA were completed. On May 6, 2003, the United States and Singapore signed the Agreement at the White House, thus marking President Bush's first FTA.

TPA. This agreement, along with the United States-Chile FTA, will be the first free trade pacts agreed to under the newly-restored Trade Promotion Authority (TPA) that Congress granted the President on August 1, 2002 (and which the President signed into law on August 6, 2002, Public Law 107-210).

TPA permits the President to negotiate good trade deals that open markets, increase choices, and lower costs for American farmers, workers, consumers, and businesses. TPA also gives the President the flexibility to seize any trade opportunity, without compromising American sovereignty or slipping into protectionism.

Congress, however, maintains a say in free trade agreements. Under TPA, the President works with Congress throughout the course of trade talks both on the conduct of trade negotiations and

in the implementation of any resulting agreement. In addition to this ongoing right of involvement, Congress preserves its ultimate role in determining whether the results serve the long-term interests of the United States by participating in the formulation of the implementing legislation and then voting on the resulting agreement and its implementing bill.

National Security. Lastly, the Bush Administration believes that free trade is one of the key instruments the United States can employ in helping to bolster economic prosperity, promote democratic consolidation, and provide for U.S. security. As stated in the September 2002 National Security Strategy document:

A strong world economy enhances our national security by advancing prosperity and freedom in the rest of the world. Economic growth supported by free trade and free markets creates new jobs and higher incomes. It allows people to lift their lives out of poverty, spurs economic and legal reform and the fight against corruption, and it reinforces the habits of liberty.

Items for Discussion

Several matters included in the U.S.-Singapore Free Trade Agreement Implementation Act have raised concerns by some Members of Congress. Some of their concerns include the following:

- ***Immigration (temporary entry for business persons).*** Senator Feinstein has led a bipartisan charge criticizing the Administration for rewriting U.S. immigration policy via this FTA. Senator Feinstein and others argue that, under Title IV of S. 1417 (or Chapter 11 of the FTA), routine renewals for the temporary entry of business and professional visitors would be allowed. They contend that only Congress, and not the executive branch, has the authority to change immigration laws. On July 16, Senators Feinstein, Sessions, and Graham sent a letter to President Bush requesting that he “renegotiate or reconfigure the trade agreements without the immigration provisions, and retransmit a new version of the implementing legislation to Congress.”

In addition, during consideration of the entry provisions in the Judiciary Committee on July 17, several Senators, including Senators Kyl, Chambliss, and Graham, all of whom voted to favorably report the bill, were also highly critical of the USTR’s insistence that substantive immigration provisions be included in these underlying trade treaties and, subsequently, their implementing legislation. They have all asked for a commitment from the USTR that future trade agreements stick to the issues of trade policy, not immigration policy.

The USTR maintains that the temporary entry of professionals falls within TPA objectives regarding the opening of foreign country markets for U.S. services and investment, in particular the reduction or elimination of barriers that restrict the operation of service suppliers or the establishment or operation of investments (for further detail on this issue, see CRS report,

“Immigration Issues in the Free Trade Agreements,” by Ruth Ellen Wasem, <http://www.congress.gov/brbk/html/ebtra135.html> or the USTR fact sheet, “Chile and Singapore FTAs: Temporary Entry of Professionals,” http://www.ustr.gov/new/fta/Chile/2003-07-21-temp_entry.pdf).

- ***United States-Chile and United States-Singapore FTAs as a “Template.”*** Following the signing of the United States-Chile FTA in December 2002, USTR Zoellick stated that this bilateral agreement could serve as a model or “template” for CAFTA and other multilateral agreements. Currently, the USTR is engaged in discussions and negotiations with numerous countries (Australia, Bahrain, the nations of Central America, the nations of Southern Africa, and the 34 democracies of the Americas) interested in signing bilateral and multilateral free trade agreements. During a statement on the Senate floor on July 15, Sen. John Kerry stated that future trade agreements must reflect the particular concerns and uniqueness of each trading partner, and that strong monitoring and enforcement provisions are necessary for a successful trade policy.

Bill Provisions

Title I - Approval Of, and General Provisions Relating to, the Agreement

This title approves the Agreement and establishes the regulatory authority for the President to implement the Agreement. The seven sections of the title clarify the relationship between the Agreement and Federal and State law, authorize the President to establish an office to provide administrative assistance to dispute settlement panels, set forth consultation and layover requirements that must precede the President’s implementation of any tariff modification by Proclamation, and cover various other provisions relating to the approval of the Agreement.

Title II - Customs Provisions

This title authorizes changes to U.S. customs law in order to implement the Agreement.

- **Sec 201 - Tariff Modifications:** This section authorizes the President to modify, continue, or eliminate duties as are necessary or appropriate to carry out the terms of the Agreement.
- **Sec 202 - Rules of Origin:** This sections establishes rules of origin, meaning that it defines where goods must originate in order to be covered under the Agreement. It also provides that products listed in Annex 3B of the Agreement (certain information technology goods and certain other medical devices) are to be considered “originating goods” if they are imported into

the United States from Singapore in the same form as they entered Singapore from another country. This section also authorizes the President to modify certain rules of origin, subject to consultation and layover provisions.

- **Sec 203 - Customs User Fees:** This section eliminates the U.S. merchandise processing fee for imports of originating goods under the Agreement.
- **Sec 204 - Disclosure of Incorrect Information:** This section states that an importer shall not be subject to penalties for mistakenly claiming that a good qualifies as an originating good if the importer voluntarily makes a corrected declaration and pays any duty owing.
- **Sec 205 - Enforcement of Textile and Apparel Rules of Origin:** This section provides that if the Secretary of the Treasury wishes to conduct a site visit in order to verify the origin of exports to the United States, and responsible officials of the enterprise do not consent to the proposed visit, then the President may exclude from the customs territory of the United States textile and apparel goods produced or exported by that enterprise. The President is also authorized to exclude goods produced or exported by an enterprise of Singapore if the President finds that the enterprise has knowingly or willfully engaged in circumvention of the Agreement's rules of origin relating to textile and apparel goods.
- **Sec 206 - Regulations:** This section requires the Secretary of the Treasury to prescribe regulations necessary to carry out the Agreement.

Title III - Relief From Imports

This title establishes a general bilateral safeguard mechanism and a textile and apparel bilateral safeguard mechanism.

- **Subtitle A (Sec 311-316) - Relief from Imports Benefitting from the Agreement:** This subtitle allows safeguard duties to be imposed on imports from Singapore if they cause or threaten to cause "serious injury" to a domestic industry producing a competitive article. The subtitle establishes various guidelines and timetables for such duties to be imposed. For instance, safeguard relief from a specific article cannot extend for more than four years, and no safeguard shall be available 10 years after the date the Agreement enters into force, unless the Government of Singapore agrees otherwise. The subtitle also allows the President to provide trade compensation to Singapore if safeguard relief is imposed.
- **Subtitle B (Sec 321-328) - Textile and Apparel Safeguard Measures:** This subtitle allows duties to be imposed on textile or apparel imports from Singapore if they cause or threaten to cause "serious damage" to a domestic industry producing a competitive article. The subtitle establishes various guidelines and timetables for such duties to be imposed, and directs the

President to examine various economic factors, such as output, market share, and wages, in determining whether serious damage exists. Relief may be initially granted for up to two years, and including any extension, the total period of relief may not exceed four years. No import relief shall be available 10 years after duties are eliminated under the Agreement. The subtitle also allows the President to provide trade compensation to Singapore if textile and apparel safeguard relief is imposed.

- **Subtitle C (Sec 331) - Cases Under Title II of the Trade Act of 1974:** This subtitle affords the President the discretion to exclude imports from Singapore from any global safeguard relief imposed by the President under title II of the Trade Act of 1974 if the President determines that such imports from Singapore are not a substantial cause of serious injury or threat of serious injury to a domestic industry.

Title IV - Temporary Entry of Business Persons

This title provides for the cross-border mobility of professionals and other business persons. Specifically, the title requires that an FTA professional non-immigrant have “specialized knowledge” of an occupation in order to receive temporary entry into the United States. A limit of 5,400 non-immigrant visas per year is established. Non-immigrants shall be admitted for one year, and this may be extended in one-year increments. There is no limit to the number of extensions; however, after five consecutive extensions, each subsequent extension of an FTA non-immigrant visa is counted against the annual cap on professional visas provided for in Section 214 of the Immigration and Nationality Act. The Title also provides wage and employment requirements for the employer while the FTA non-immigrant is in the United States. For instance, the non-immigrant must receive at least the prevailing wage level for his/her occupation in the area of employment. The title establishes a process for investigating violations of these requirements and establishes penalties if such violations are found.

Cost

CBO estimates that implementing the United States-Singapore Free Trade Agreement would reduce revenues by \$55 million in FY2004 and by \$411 million over the FY2004-2008 period. Additionally, implementing the Agreement would yield a net increase in mandatory spending of less than \$500,000 per year. Lastly, spending subject to appropriation would likely be about \$500,000 in FY2004 and \$3.1 million over the FY2004-FY2008 period

Administration Position

While no formal Statement of Administration Policy (SAP) has been released on S. 1417, the Administration has expressed repeatedly that it strongly supports passage of the U.S.-Singapore Free Trade Agreement Implementation Act. In its SAP for H.R. 2739, the House version of S. 1417, the Administration stated the following:

The Administration strongly supports H.R. 2739, which will implement the U.S.-Singapore Free Trade Agreement (FTA), as signed by the United States and Singapore on May 6, 2003.

The U.S.-Singapore FTA advances U.S. national economic interests and meets the negotiating principles and objectives set out by Congress in the Trade Act of 2002. This agreement levels the playing field for American companies that do business in Singapore. Singapore has signed or is negotiating free trade agreements with Japan, Canada, Australia, New Zealand, and others. Without this agreement, U.S. workers and businesses could be placed at a competitive disadvantage.

This FTA provides tariff-free access to Singapore for all U.S. goods, including textile and agriculture products. It opens opportunities for U.S. services businesses, and addresses other barriers to trade. It breaks new ground in areas such as e-commerce, intellectual property rights, customs procedures, and regulatory transparency.

The U.S.-Singapore FTA builds on a strong economic and security relationship with a long time partner and will strengthen those ties. As the first U.S. FTA with an Asian-Pacific country, provisions in this agreement will serve as the foundation for agreements with other countries in the region.

Possible Amendments

Under Trade Promotion Authority, no amendments to this bill are permitted.